IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIRST DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION NO : 23932 of 2004

Between:

Deekondi Vathsala Bai, W/o.Late Sambaiah,
R/o.C/o.R.Laxman, H.No.10-150, Linegadda, Chinnoor,
Adilabad District.

..... PETITIONER

AND

1 The Government of A.P. rep.by its Secretary I & CAD Department,

Secretariat, Hyderabad.
2 The District Collector, Adilabad.
3 The Executive Engineer, I & CAD Department, Palvari Purshotham

Rao project, Bellmpally, Division, Bellampally, Adilabad District.
4 The Divisional Engineer, I & CAD Department, Palvai Purshotham

Rao Project, Bellampally Division, Bellampally, Adilabad District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more in the nature of writ of Mandamus directing the respondents herein not to dispossess the petitioner from her patta land i.e. sy.No.109/A extent Ac.6.95 gts. situated at Pumbapur shivar, Revenue Mandal Dahegaon, Asifabad, Adilabad District for the purpose of digging and construction of canal for palvai purshotham Rao project by duly declaring the action of the respondents in construction and digging of canal for palvai

purshotham Rao project without following due procedure under law i.e. without notice, without payment of compensation as illegal, arbitrary and violative of Art.14, 21 and 300-A of the Constitution of India and pass such other order or orders.

Counsel for the Petitioner: MR.VENKATESHWAR VARANASI

Counsel for the Respondents:GP FOR IRRIGATION & COMM AREA DEV.

The Court at the stage of admission made the following ORDER:

The petitioner states that the respondents are undertaking excavation in her land in an extent of Ac.6.95 cents in survey No.109/ situated at Pumbapur shivar, Asifabad Mandal, Adilabad district. She contends that no proceedings have been initiated by the respondents either under the Land Acquisition Act, 1894 (for short 'the Act') or any other law for acquiring the same.

When the writ petition came up for admission on 22.12.2004, an interim order was passed by this Court directing that the respondents shall not undertake any construction or digging activity over the land of the petitioner, except by acquiring the same.

The learned Government Pleader for Irrigation had obtained instructions. It is stated that out of Ac.6.00 and odd of land of the petitioner, only an extent of Ac.0.83 cents is required for undertaking the work of irrigation project and for this purpose, the necessary steps for acquiring the same have already been taken.

Heard the learned counsel for the petitioner and the learned Government Pleader for Irrigation.

The land of a citizen cannot be utilized for any public purpose, except by acquiring it under the provisions of the Act. It is also permissible to acquire the lands by negotiations. Unless the land is acquired under the Act or through any other means, the respondents cannot proceed against the land of the petitioner.

In view of the submissions made by the learned Government Pleader that the land of the petitioner would be utilized for the project only after required

extent is acquired under the provisions of the Act, the writ petition is disposed of directing that the respondents shall not undertake any construction or other activities over the land of the petitioner, except by acquiring the same under the Land Acquisition Act. There shall be no order as to costs.

21.02.2005

ksld

To

1 The Government of A.P. rep.by its Secretary I & CAD Department, Secretariat, Hyderabad.
2 The District Collector, Adilabad.
3 The Executive Engineer, I & CAD Department, Palvari Purshotham Rao project, Bellmpally, Division, Bellampally, Adilabad District.
4 The Divisional Engineer, I & CAD Department, Palvai Purshotham Rao Project, Bellampally Division, Bellampally, Adilabad District.

5 Two C.Cs. to the Government Pleader for Irrigation & Comm. Area Dev. High Court of A.P., Hyderabad, (OUT).

6 Two C.D. Copies.